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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/330,384 | 06/11/1999 | RICHARD E. GLIKLICH | OSC99-01 | 9339 |

7590 06/20/2006

CHAPIN & HUANG L L C
 WESTBOROUGH OFFICE PARK
 1700 WEST PARK DRIVE
 WESTBOROUGH, MA 01581

EXAMINER

RIMELL, SAMUEL G

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2164

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 09/330,384 | Applicant(s) GLIKLICH, RICHARD E. | |
| | Examiner Sam Rimell | Art Unit 2164 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-10,12-18,20-23,25-29,32-35,37,38 and 40-43 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,5-10,12-18,20-23,25-27,35,37 and 41-43 is/are allowed.
- 6) ☒ Claim(s) 28,29,33,38 and 40 is/are rejected.
- 7) ☒ Claim(s) 32, 34 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 28, 29, 33, 38 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by DeBusk et al. (U.S. Patent 5,991,728).

Claim 28: FIG. 7 illustrates the inputting and logging of medical information, which corresponds to receiving sets of medical information having specific values. When the log/save button (192) is pressed, the data is maintained. FIG. 4 illustrates the step of obtaining a password (Login) and privilege level (password). FIG. 13 illustrates a template for allowing a user to make selections of multiple characteristics (equipment types) and multiple doctors. Using a clinical algorithm, the display chart of FIG. 14 is produced, which compares a doctor to another doctor on the usage of medical equipment. The comparison can also be made for “consumable medical supplies” (col. 29, lines 64-65) which includes drugs. The display output is dependent upon the user having a password, which is considered to be a specific privilege level. What the user decides to “view” is dependent upon the desires of the user. A given user may view a portion of or all of the reports. The term “view” does not limit the content of what the program actually produces as output to the user.

Claim 29: FIG. 14 illustrates the display of two sets of medical information which relate to physicians. The information is not displayed unless the user has the privilege level of having a

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password. The information shown in FIG. 14 illustrates the comparison of one physician against another.

Claim 33: FIG. 14 is a display involving a comparison of doctors in the treatment of a patient by C-section. Functions (ii)-(iv) are optionally recited and carry no patentable weight.

Claim 38: FIG. 32 of DeBusk discloses an input screen in which a user has entered a medical study selection (492---Perfusion Tracepak) and patient medical condition data (box 494—"inner ear lesion"). The two types of data are correlated in order to produce outcome reports, such as those of FIGS. 14-16. The "clinical outcome" is the usage of specific amounts of surgical supplies during surgical procedures on patients and are presented in the reports of FIGS. 14-16.

Claim 40: All of the studies (FIGS. 14-16) have clinical outcomes (results of supply usage). Any study may be selected from the database.

Claims 32 and 34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 1-2, 5-10, 12-18, 20-23, 25-27, 35, 37 and 41-43 are allowed.

This office action is made non-final.

Remarks

Applicant's amendment of 1/27/06 has been approved for entry. The previously applied rejections under 35 USC 112 first paragraph and 35 USC 112 second paragraph have been overcome by the amendment of 1/27/06. Pursuant to the agreement in the interview of January 18, 2006, the prior art rejections of claims 1, 10, 20 and 21 have been withdrawn and those

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independent claims are now indicated as allowed. Independent claims 28 and 38 remain under prior art rejection. Independent claims 42 and 43 were previously indicated as containing allowable subject matter and are now indicated as allowed.

This office action is made non-final.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.

A handwritten signature in black ink, appearing to read 'Sam Rimell', is positioned above the printed name.

Sam Rimell
Primary Examiner
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